

Merchant Power Plants

A Consumer Fact Sheet from your Indiana Office of Utility Consumer Counselor

Merchant power plants differ from traditional rate-based power plants as to: 1) how they are financed and 2) where they sell the electricity they generate.

A **merchant** power plant is funded by investors and sells electricity in the competitive wholesale power market. Since a merchant plant is not required to serve any specific retail consumers, consumers are not obligated to pay for the construction, operations or maintenance of the plant.

A traditional **rate-based** power plant, on the other hand, is built and operated by a regulated electric utility specifically to serve that utility's Indiana retail customers. In return, the customers are obligated to pay for the plant's construction, operations and maintenance.

Nine merchant power plants are currently operating in Indiana. Many of these plants were proposed throughout the United States in the late 1990s in response to: 1) the federal government's decision to develop a national, competitive wholesale power market and 2) increased consumer demand for electricity.

The flurry of merchant power plant proposals in Indiana subsided by 2001 as a result of the forces of supply and demand; merchant plants throughout the Midwest came online and wholesale electric supplies increased, just as the economic slowdown of the early 2000s reduced the demand for electricity. Additionally, the merchant plants built in Indiana rely mainly on natural gas for fuel and the increase price of gas has affected their ability to offer competitively priced power into the wholesale market.

Merchant power plants are a corporate hybrid - part utility and part manufacturing plant. Proposals to site merchant power plants have raised issues that are typical with any new industrial project, including appropriate land use, impacts on nearby residents, infrastructure and natural resources, employment levels and wages' tax revenue and abatements, etc. In addition, merchant plants can raise other issues such as the need for new power and the plants' impact on existing utility systems and customers.

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Regulation

In Indiana, three state agencies regulate and/or monitor merchant power plants:

- The **Indiana Utility Regulatory Commission (IURC)** regulates power plants in their roles as utilities.
- The **Indiana Department of Environmental Management (IDEM)** regulates power plant air & water emissions.
- The **Indiana Department of Natural Resources (DNR)** monitors power plants' water use and impact.

The **Indiana Office of Utility Consumer Counselor (OUCC)**, the agency designated by state law to represent the interests of Indiana utility consumers and the general public, participates in all merchant power plant proceedings before the IURC.

In addition, the **Federal Energy Regulatory Commission (FERC)** governs the sale of electric power in the wholesale market.

Merchant power plants may also be subject to **local zoning** regulations, where applicable.

The OUCC's Role in Merchant Power Plant Proceedings

As the state agency representing Indiana consumers in cases before the IURC and other forums, the Indiana Office of Utility Consumer Counselor (OUCC) is active in all IURC proceedings.

The OUCC's role, under Indiana law, is to represent the interests of all utility consumers and the general public. The agency's attorneys and technical staff (including engineers, accountants, economists and financial analysts) gather information and carefully examine each proposal on a case-by-case, fact-specific basis in order to develop the agency's position.

The OUCC has focused on a number of issues in previous merchant plant proceedings. These issues have included, but were not limited to:

- The receipt of input from all interested parties - including consumers and local officials - on the proposal and the appropriate inclusion of this input into the development of the OUCC's position and the IURC's evidentiary record.
- The proposed plant's impact on the electric transmission system, the state's electric utilities and energy consumers.
- The potential impact of proposed natural gas-fired plants on the gas supply to Indiana consumers and the mitigation of any negative impacts.
- Appropriate reporting and approval requirements regarding construction and operation of the proposed plant, including prior approval for power sales from merchant plants to regulated utility affiliates, to ensure that appropriate and fair prices are charged for the electricity.
- The limitation of certain public utility powers (such as eminent domain) given the proposed plant's request for relaxed IURC oversight.
- The maintenance of appropriate IURC jurisdiction/authority over the merchant plant.

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Consumer Contact Information

Indiana Office of Utility Consumer Counselor (OUCC)

Consumers who have questions or comments about merchant power plants can contact the OUCC's consumer services staff toll-free at 1-888-441-2494, or through the OUCC's Website at www.IN.gov/OUCC. The OUCC's Website includes a consumer's guide to the utility regulatory process, along with additional consumer publications.

Indiana Utility Regulatory Commission (IURC)

The IURC's Consumer Affairs Division can be reached toll-free at 1-800-851-4268. The Commission's Website is www.IN.gov/iurc.

Indiana Department of Environmental Management (IDEM)

Consumers with specific concerns regarding air and water emissions of merchant plants may contact the Indiana Department of Environmental Management toll-free at 1-800-451-6027. The Department's Offices of Air Quality & Water Quality can be reached online, respectively, at www.IN.gov/idem/air & www.IN.gov/idem/water.

Indiana Department of Natural Resources (DNR)

Questions regarding certain power plant water use issues (such as water withdrawal and construction in floodplains) can be directed to the Indiana Department of Natural Resources. The Department's Division of Water can be reached toll-free at 1-877-WATER-55 or online at www.IN.gov/dnr/water.

Additional Information

For IURC information on currently operating merchant power plants, approved proposals and dismissed petitions: www.IN.gov/iurc/utilities/energy/power/power_index.html

For IDEM information on air permits: www.in.gov/idem/air/permits/Air-Permits-Online/index.html

For FERC Order 888, promoting wholesale electric competition: www.ferc.gov/docs-filing/elibrary.asp

The Indiana Office of Utility Consumer Counselor (OUCC) is the state agency that represents the interests of all utility consumers and the general public in matters related to the provision of utility services. The agency is active in proceedings before regulatory and legal bodies, and committed to giving consumers a voice in the creation of utility service policy.

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